

Exhibit A

From: [Post, Kevin](#)
To: [Brad Caldwell](#); [Fukuda, Ching-Lee](#)
Cc: [Keese, Daniel T.](#); [Batchelder, James R.](#); [Robinson, Lauren](#); [Raymond, Megan](#); [ema@emafirm.com](#); [walsh@fr.com](#); [ralsalam@perkinscoie.com](#); [tcorbin@fenwick.com](#); [bkohm@fenwick.com](#); [jschnurer@perkinscoie.com](#); [allengardner@potterminton.com](#); [mikejones@potterminton.com](#); [melissabaily@quinnemanuel.com](#); [smartflash@caldwellcc.com](#)
Subject: RE: Smartflash case
Date: Monday, October 28, 2013 7:37:23 PM
Attachments: [model-order-excess-claims.pdf](#)

Brad,

On behalf of Defendants, we share your preference not to delay the case. With respect to point 2, below, we believe that the Federal Circuit Advisory Committee's Model Order Limiting Excess Patent Claims and Prior Art (attached) provides a reasonable way to focus the parties' (and the court's) resources and is the current best guidance on how to properly balance plaintiff's and defendants' interests. What is Smartflash's position on the incorporation of this Model Order into our current schedule?

Assuming that the parties are limited in the number of claims to be asserted (along with the number of prior art references that can be relied upon) to the numbers proposed in the Model Order, we do not anticipate a need to adjust the date for our invalidity contentions.

We are not available for a call tomorrow, but could be available Wednesday at 12pm ET / 9am PT if you would like to discuss.

Regards,
Kevin

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-----Original Message-----

From: Brad Caldwell [<mailto:bcaldwell@caldwellcc.com>]
Sent: Sunday, October 27, 2013 10:57 PM
To: Fukuda, Ching-Lee
Cc: Post, Kevin; Keese, Daniel T.; Batchelder, James R.; Robinson, Lauren; Raymond, Megan; [ema@emafirm.com](#); [walsh@fr.com](#); [ralsalam@perkinscoie.com](#); [tcorbin@fenwick.com](#); [bkohm@fenwick.com](#); [jschnurer@perkinscoie.com](#); [allengardner@potterminton.com](#); [mikejones@potterminton.com](#); [melissabaily@quinnemanuel.com](#); [smartflash@caldwellcc.com](#)
Subject: RE: Smartflash case

Ching-Lee and Defendants:

Thank you for the response. Our preference is to not delay progress in the case. I don't have a proposal for point 2 of my email below, and it looks like we will be asserting almost every claim of the patents-in-suit if the parties don't reach an agreement otherwise. The reason we (Plaintiffs) reached out to each of you a couple weeks before our infringement contentions are due is because we would obviously be in less of a position to negotiate against ourselves (e.g., negotiate less asserted claims or more time for Defendants) if Defendants negate the potential mutuality of an agreement by keeping us in limbo until we are already up against our existing contentions deadline.

If Defendants are not going to seek an extension for your invalidity contentions deadline or to limit the number of claims at issue in this case, please let me know. Otherwise, will y'all please respond to my questions on Monday? Also, can we have a call on Tuesday afternoon (say, 3:30pm CDT) to discuss any particulars in the event Defendants will seek modifications of this kind?

Thank you.

-Brad

From: Fukuda, Ching-Lee [Ching-Lee.Fukuda@ropesgray.com]

Sent: Thursday, October 24, 2013 4:18 PM

To: Brad Caldwell

Cc: Post, Kevin; Keese, Daniel T.; Batchelder, James R.; Robinson, Lauren; Raymond, Megan; ema@emafirm.com; walsh@fr.com; ralsalam@perkinscoie.com; tcorbin@fenwick.com; bkohm@fenwick.com; jschnurer@perkinscoie.com; allengardner@potterminton.com; mikejones@potterminton.com; eric.faragi@bakerbotts.com; neil.sirota@bakerbotts.com; robert.maier@bakerbotts.com; michael.barta@bakerbotts.com; melissabaily@quinnemanuel.com; smartflash@caldwellcc.com

Subject: Re: Smartflash case

Brad:

Thanks for reaching out to us regarding these issues. Defendants are amenable to discussing the timing of the parties' respective contentions, as well as limits to the number of asserted claims and prior art references. As a threshold matter, we need to better understand roughly how many claims Smartflash plans to assert. Can you provide more detail, including whether Smartflash has a proposal on your point 2 below?

Email service to Apple's counsel should be sent to
AppleSmartflashService@ropesgray.com<<mailto:AppleSmartflashService@ropesgray.com>>.

Regards,
Ching-Lee

On Oct 18, 2013, at 9:35 PM, "Brad Caldwell"
<bcaldwell@caldwellcc.com<<mailto:bcaldwell@caldwellcc.com>>> wrote:

Counsel:

I hope this email finds you well. I have a few issues I would like to raise with you collectively now that we have scheduling orders and some sense of the timing for these cases. I respectfully request that you please let me know your response(s) on or by next Thursday (10/24).

1. Under the Court's order, we figure that our infringement contentions would be due on November 11 (as keyed from the parties' status conference date), and it looks like your invalidity contentions are due on January 13. For starters, please let us know if you calculate the dates differently. In negotiating the DCO, are you going to request a later date for your invalidity contentions? We are not wanting to delay anything too much, but we want to avoid a scenario where we serve our infringement contentions on November 11 and then y'all turn around and request more time for your invalidity contentions.

2. Will any of you be moving the Court to limit the number of claims that can be asserted by Smartflash in this matter? If so, what is it you will propose (for both the number of asserted claims and the number of asserted prior art references)?

3. If you happen to have an email listserve set up to make group emails to your team easier, please let us know what it is. Ours is on the CC line. In the meantime, please pass this email on to other team

members who should see it.

Thank you.

Best regards,
Brad

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